

Jurisdiction of Traffic Offenses Committed by Juveniles

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1.1 Types of Traffic Offenses

Traffic violations may be designated as either civil infractions or criminal offenses (misdemeanors or felonies). Unless declared to be a civil infraction or felony by the Michigan Vehicle Code, MCL 257.901–257.923; MSA 9.1801–9.2623, or other state law, violations of the Michigan Vehicle Code are misdemeanors. MCL 257.901(1); MSA 9.2601(1). Note that some criminal traffic offenses appear in the Penal Code, MCL 750.1–750.566; MSA 28.191–28.834.*

“‘Civil infraction’ means an act or omission prohibited by law which is not a crime as defined in [MCL 750.5; MSA 28.195], and for which civil sanctions may be ordered.” MCL 257.6a; MSA 9.1806(1). See also MCL 712A.1(1)(a); MSA 27.3178(598.1)(1)(a), and MCL 600.113(1)–(2); MSA 27A.113(1)–(2) (types of civil infractions).

A civil infraction need only be proved by a preponderance of the evidence. MCL 600.113(3); MSA 27A.113(3). Penalties for civil infractions include civil fines, court costs, assessments, court-ordered treatment programs, and education or rehabilitation programs. A finding of responsibility for a civil infraction is reported to the Secretary of State and appears on the juvenile’s driving record rather than his or her delinquency record.

A civil infraction shall not be considered a lesser-included offense of a criminal offense. MCL 257.907(1); MSA 9.2607(1).

A “crime” is an act or omission forbidden by law which is not designated as a civil infraction, and which is punishable upon conviction by imprisonment and/or a penal fine. MCL 750.5; MSA 28.195. See MCL 750.7–750.9; MSA 28.197–28.199 (definitions of felony and misdemeanor).

A finding that a juvenile has committed an offense that would be a criminal offense were it committed by an adult appears on the juvenile’s delinquency record and his or her “driving record.”*

*For the statutory elements of selected criminal traffic offenses, see Chapter 9.

*See Chapter 7 for a discussion of records.

1.2 Jurisdiction of Civil Infractions

MCL 257.741(5); MSA 9.2441(5), states:

“If the person cited [for a civil infraction] is a minor, that individual shall be permitted to appear in court without the necessity of appointment of a guardian or next friend. The courts listed in subsection (2) shall have jurisdiction over the minor and may proceed in the same manner and in all respects as if that individual were an adult.”

MCL 257.741(2)(a)–(c); MSA 9.2441(5)(a)–(c), list district and municipal courts as having jurisdiction of civil infractions.

A “juvenile” is defined in MCR 5.903(B)(2) as a minor defendant alleged or found to be within the jurisdiction of the court because of having committed an offense. Under MCR 5.903(B)(4), an “offense by a juvenile” includes an act that violates a criminal statute or ordinance, or an act that violates a traffic law other than an offense designated as a civil infraction. See *Welch v District Court*, 215 Mich App 253, 256–57 (1996) (district or municipal court, not “juvenile court,” has jurisdiction of traffic civil infractions committed by minors). Thus, the court rules governing procedure in “juvenile court” and case law preclude the Family Division of the Circuit Court from exercising jurisdiction over a juvenile accused of a traffic civil infraction.

However, a recent amendment to the Juvenile Code allows the Family Division to exercise such jurisdiction in certain circumstances. A Family Division may now enter an agreement under §2e of the Juvenile Code with any or all district courts or municipal courts within its geographical jurisdiction. If the court enters such an agreement, it has jurisdiction of civil infractions committed within its jurisdiction. MCL 712A.2(a)(1); MSA 27.3178(598.2)(a)(1). The agreement must specify the civil infractions for which the Family Division “waives” jurisdiction; those civil infractions for which the Family Division “waives” jurisdiction must be heard in the district or municipal court. MCL 712A.2e(1)–(2); MSA 27.3178(598.2e)(1)–(2).

Problems may arise in jurisdictions where no agreement exists. If a juvenile is charged with a misdemeanor traffic offense and a civil infraction, or if the juvenile is charged with a misdemeanor traffic offense and is allowed to plead to a civil infraction (e.g., a juvenile charged with reckless driving pleads to careless driving), it is unclear how the “juvenile court” should proceed. If the juvenile is charged with a misdemeanor but pleads to a civil infraction, a new citation for the civil infraction may be issued to the juvenile, who must then follow the required procedures in municipal or district court. The “juvenile court” may then dismiss the misdemeanor citation.

1.3 Jurisdiction of Criminal Traffic Offenses

The Family Division has exclusive original jurisdiction, superior to and regardless of the jurisdiction of any other court, in proceedings concerning

juveniles under 17 years of age who are found within the county and who are charged with violations of ordinances or state or federal law. MCL 712A.2(a)(1); MSA 27.3178(598.2)(a)(1). A juvenile is “found within the county” where the offense occurred or where the juvenile is physically present. MCR 5.926(A).

A “juvenile” is defined in MCR 5.903(B)(2) as a minor defendant alleged or found to be within the jurisdiction of the court because of having committed an offense. Under MCR 5.903(B)(4), an “offense by a juvenile” includes an act that violates a criminal statute or a criminal ordinance, or an act that violates a criminal traffic law. Note, however, that proceedings under the Juvenile Code are not criminal proceedings. MCL 712A.1(2); MSA 27.3178(598.1)(2).

1.4 Permitted Procedures When a Juvenile Is Charged With a Traffic Offense

When a juvenile is accused of violating a provision of the Michigan Vehicle Code, the procedures in §2b of the Juvenile Code apply. However, in certain cases involving traffic offenses, the procedures governing delinquency cases may apply.*

As noted in Section 1.2, above, a provision of the Michigan Vehicle Code states that when a minor is charged with a civil infraction, the court with jurisdiction “may proceed in the same manner and in all respects as if that individual were an adult.” MCL 257.741(5); MSA 9.2441(5). This strongly suggests that the rules of civil procedure applicable to civil infractions apply, regardless of whether a juvenile is involved. See MCR 4.101 and MCL 257.741–257.750; MSA 9.2441–9.2450.

However, in those Family Division courts that have jurisdiction of traffic civil infractions pursuant to an agreement under §2e of the Juvenile Code,* it is unclear whether the general rules for civil infractions apply, or whether §2b of the Juvenile Code applies. The procedures listed in §2b of the Juvenile Code must be followed when a juvenile is charged with a violation of the Michigan Vehicle Code or a local ordinance substantially corresponding to a provision of the Michigan Vehicle Code. Most traffic civil infractions are contained in the Michigan Vehicle Code or a local ordinance corresponding to a provision of the Michigan Vehicle Code. Thus, it appears that the procedures in §2b of the Juvenile Code govern traffic civil infractions adjudicated in the Family Division pursuant to an agreement under §2e of the Juvenile Code.

Nonetheless, the procedures contained in MCR 4.101 and MCL 257.741–257.750; MSA 9.2441–9.2450, governing civil infraction actions in district and municipal courts have been included in Chapter 8 for reference.

*See Chapter 3 for a detailed discussion of the permitted procedures.

*See Section 1.2, above.

1.5 Venue and Transfer of Case From County Where Offense Occurred to County Where Juvenile Resides

Under the Juvenile Code, venue is proper where the offense occurred or where the juvenile is physically present. MCL 712A.2(a) and (d); MSA 27.3178(598.2)(a) and (d), and MCR 5.926(A). The case may also be transferred to the juvenile's county of residence prior to trial. MCR 5.926(B).

If any juvenile is brought before the Family Division in a county other than the county in which he or she resides, the court may, before a hearing and with the consent of the court in the juvenile's county of residence, enter an order transferring jurisdiction over the matter to the court of the county of residence. If the juvenile's county of residence is a "county juvenile agency," then the consent of the court of the juvenile's county of residence is not required. MCL 712A.2(d); MSA 27.3178(598.2)(d), and MCL 712A.1(1)(b); MSA 27.3178(598.1)(1)(b). The order and a certified copy of the record of any proceedings in the case must be delivered to the court of the county of residence without charge. MCL 712A.2(d); MSA 27.3178(598.2)(d), MCR 5.926(B) and 5.926(E). MCR 5.926(B) adds that transfer must occur before trial.

Note: The "County Juvenile Act" was created by 1998 PA 518. See MCL 45.621 et seq.; MSA __.__. Because the act applies only to a county that is eligible for transfer of federal Title IV-E funds under a 1997 waiver, the act apparently only applies to Wayne County. The act and related amendments to other statutes allow a "county juvenile agency" to provide services to juveniles "within or likely to come within" the Family Division's jurisdiction of criminal offenses by juveniles.

MCR 5.926(C) provides that when disposition is ordered by a Family Division other than the Family Division in a county where the juvenile resides, the court ordering disposition is responsible for any costs incurred in connection with the order unless:

- F the court in the county where the juvenile resides agrees to pay such dispositional costs, or
- F the juvenile is made a ward of the state pursuant to the Youth Rehabilitative Services Act, MCL 803.301 et seq.; MSA 25.399(51) et seq., and the county of residence withholds consent to transfer of the case.

1.6 Construction of Court Rules Governing Procedure

Subchapter 5.900 of the Michigan Court Rules, which governs procedure within the "juvenile court," is "to be construed to secure fairness, flexibility, and simplicity. The court shall proceed in a manner that safeguards the rights and proper interests of the parties." MCR 5.902(A).